IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.412 OF 1992.

Manager, Maharashtra Tourisum
Development Corporation, Bombay
& Anr. : Appellants.

versus

Subhash Gajanan Rane & Anr. : Respondents.

Mr.S.N.Gawade, AGP, for the appellants.
Mr.A.G.Toraskar for Respondent No.1.
Mr.G.S.Hegade with Mr.Lokesh for Respondent No.2

CORAM : D.G.DESHPANDE,J.

DATED : 11th APRIL 2005.

ORAL ORDER

1. Heard Mr.Gawade, the learned AGP appearing for the appellants and Mr.Toraskar, the counsel appearing for Respondent No.1. Respondent No.1 suffered from an accident. According to the Doctor it was a disability to

the extent of 90% because there was paralysis to the right hand of respondent No.1. He was serving at that time as supervisor but as a result of accident he was reduced to the post of clerk. His salary was Rs.1400/- per month at that time. The net loss, because of the reduction in rank, was Rs.527/- per month. At the time of accident his age was 38 years. The tribunal, therefore, calculated monthly loss of Rs.527/- for a period of 20 years next i.e. up to the date of his retirement and awarded him compensation of Rs.One lac. It is this order that is challenged by the appellants.

2. The learned AGP contended that as per Schedule I Part II of the Workmen's Compensation Act 1923 at Sr.No.4 for loss of hand, the percentage of loss of earning capacity is shown to the extent of 60, and therefore, the tribunal erred in awarding compensation of Rs.One lac. If this argument is accepted and if the claimant was earning Rs.1400/- per month as per his application, then loss would be Rs.840/- per month and if he was to serve up to the period of 20 years next, then compensation would be more than Rs.One lac. Further the tribunal has not

taken into consideration the further prospects of promotion and increase in salary. The compensation has been calculated at flat rate of Rs.527/- per month. Therefore, the order does not require any interference. There is no illegally.

3. So far as interest part is concerned, the learned AGP relied upon the judgment of Supreme Court reported in 2001 ACJ 428 [Kaushnuma Begum and others v. New India Assurance Co. Ltd. and others] wherein it has been held by the Supreme Court that with a change in economy the banks have lowered the rates of interest on fixed deposits. In that case also earlier 12% interest was awarded by the tribunal but the Supreme Court reduced it to 9%. In view of this judgment of the Supreme Court, the rate of interest has to be reduced and it should be 9% p.a. Hence the order:_-

:ORDER:

The appeal is partly allowed.

The compensation awarded by the tribunal to Respondent No.1 to remain as it is.

The rate of interest shall be at 9% p.a.

No order as to costs.

[D.G.DESHPANDE]

11/04/2005 JUDGE.